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Question of Cyprus

Oceans and the law of the sea

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Seventy-first year

Letter dated 29 February 2016 from the Permanent Representative of Cyprus to the United Nations addressed to the Secretary-General

Upon instructions from my Government, I have the honour to draw your attention, in your capacity as depositary of the United Nations Convention on the Law of the Sea, to yet another provocative and illegal act by the Republic of Turkey in the exclusive economic zone (EEZ) of the Republic of Cyprus, in violation of the sovereign rights and jurisdiction of the Republic of Cyprus in its EEZ and over its continental shelf, as reflected in the Convention and relevant customary international law.

On 17 December 2015, a navy vessel of the Republic of Turkey approached and harassed the vessel MV *Flying Enterprise*, flying the flag of the Republic of Cyprus. It is noted that MV *Flying Enterprise* was duly licensed through the competent authority of the Republic to conduct a geophysical survey on behalf of a legal entity of a third country, in the south of Cyprus within its EEZ/continental shelf (see annex) and a relevant navigational warning (NAVTEX No. 09/16) was issued for this purpose.

According to the investigation carried out by the Cyprus Police, the incident occurred as follows:

- On 17 December 2015, at 1130 UTC, the MV *Flying Enterprise*, during its survey operations, at position 34°10'3"N/32°28'4"E (point 1 on map in annex), received a call by a Turkish warship, the TCG *Gediz* (ID F-495), on channel 16/69 requesting information concerning its identity and activities.
- At 1507 UTC, at position 34°09'5"N/32°16'7"E (point 2 on map in annex), the said warship called on the MV *Flying Enterprise*, via VHF 69, and instructed its captain to stop all survey operations and change course and speed by reason of entering a "Turkish maritime restricted area".
- At 1600 UTC, the same warship, via VHF 69, again instructed the MV *Flying Enterprise*, which continued its survey operations, to stop all operations,

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collect all equipment and change course and speed by reason of entering a "Turkish maritime restricted area".

- The MV *Flying Enterprise* continued its operations while the Turkish warship, heading with parallel course and same speed, remained at a distance of 2.5 nautical miles from it.

At all times during the incident described above, the MV *Flying Enterprise* was within the EEZ/continental shelf of the Republic of Cyprus, in a marine area which has already been delimited between the relevant opposite coastal States, namely the Republic of Cyprus and the Arab Republic of Egypt, by means of an EEZ Delimitation Agreement (2003). It is also pointed out that the MV *Flying Enterprise* was carrying out a survey for the purpose of cable laying in the Cypriot EEZ/continental shelf, having obtained authorization from the competent Cypriot authorities, in accordance with the Cypriot Geological Surveys Law (Law 140(I)/2013) and the Submarine Cables Regulations (No. 578/2014), which implement article 79 of the United Nations Convention on the Law of the Sea, which is applicable mutatis mutandis in the EEZ of a coastal State by virtue of article 56 (3) of the Convention and which also reflects customary international law.

The Republic of Cyprus wishes to stress that the Republic of Turkey, being the State responsible for the official acts of its navy, abused the freedom of navigation that its war vessels enjoy in order to harass the MV *Flying Enterprise*.

The vessel of the Turkish navy had no jurisdiction and/or right to either intervene or instruct the MV *Flying Enterprise* in any way. By doing so, it violated, among others, the rights of the Republic of Cyprus under articles 56 and 77 of the Convention, on the "Rights, jurisdiction and duties of the coastal State in the exclusive economic zone" and the "Rights of the coastal State over the continental shelf", which also reflect customary international law.

Moreover, the Republic of Turkey, through the actions of its warship against the MV *Flying Enterprise*, has infringed the right of a legal entity of a third country to carry out a survey for the purposes of laying a submarine cable within the EEZ and continental shelf of the Republic of Cyprus, pursuant to article 79 (1) of the Convention, as well as the Republic of Cyprus' right, in authorizing such surveys, to take reasonable measures for the exploration and exploitation of its EEZ/continental shelf (article 79 (2) of the Convention).

It is clear that Turkey's acts constitute a violation of international law and an infringement of the sovereign rights and jurisdiction of the Republic of Cyprus in its EEZ and over its continental shelf, as provided for by the Convention, relevant customary international law and Cypriot domestic law.

The Government of the Republic of Cyprus calls once again on the Government of the Republic of Turkey to respect the principles of international law on the peaceful use of the seas.

I should appreciate if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda items 44 and 79 (a), and of the Security Council, and have it published in the next Law of the Sea Bulletin.

(*Signed*) Nicholas **Emiliou**

Annex to the letter dated 29 February 2016 from the Permanent Representative of Cyprus to the United Nations addressed to the Secretary-General